

DEPARTMENT OF THE CORPORATION COUNSEL 205

MOANA M. LUTEY 6385

Corporation Counsel

BRIAN A. BILBERRY 7260

Deputy Corporation Counsel

County of Maui

200 South High Street

Wailuku, Maui, Hawaii 96793

Telephone No.: (808) 270-7741

Facsimile No.: (808) 270-7152

Attorneys for Defendant

County of Maui

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

AVID AMIRI, INDIVIDUALLY
AND AS TRUSTEE OF THE
DEUTSCHE INTERNATIONAL
TRUST II,

Plaintiffs,

vs.

COUNTY OF MAUI; DOE
DEFENDANTS 1-100,

Defendants.

CIVIL NO. 19-cv-00373 JAO-RT

DEFENDANTS' MEMORANDUM
REGARDING PLAINTIFF'S
MOTION TO CONTINUE TRIAL;
CERTIFICATE OF SERVICE

Trial Date: October 18, 2021

**DEFENDANT'S MEMORANDUM REGARDING
PLAINTIFF'S MOTION TO CONTINUE TRIAL**

It is not clear as of today that a continuance of trial is necessary for the protection of the public health. The County trusts the district court has and will continue to assess any health risks posed by proceeding to trial of this case on October 18, 2021. The County trusts the district court has and will continue to make appropriate precautions, including a continuance of trial, if that becomes necessary to safeguard the health of the public, and the parties, witnesses and attorneys required to appear for trial of this case. Under normal circumstances Defendant County of Maui would otherwise strongly oppose continuance of this trial, and in principle does so here as well.

Apart from public health concerns, Plaintiff's Memorandum in Support does not state good cause for a continuance of the trial of this case. Plaintiff has known about the trial date, and the allegedly concurrent state court case for which its counsel admittedly "will only play a small role," for more than 6-months. In this regard, the purpose of the current Motion to Continue Trial appears to be unnecessary delay. This case has otherwise already been continued twice, from September 8, 2020 to April 12, 2021, and then to October 18, 2021. ECF Nos. 16, 45, and 51.

If the district court should determine a trial continuance is necessary for reasons of public health, continuance of pretrial deadlines in this case is not concurrently warranted. Plaintiff's Memorandum in Support of Motion at page 3

acknowledges that “Plaintiff’s counsel will only play a small role in the State court trial and intends to try to minimize his physical presence at trial.” ECF No. 60-1, PageID # 128. Plaintiff’s Memorandum also acknowledges that “Plaintiff is not seeking a seeking a trial continuance because he is not prepared to proceed to trial,” and asserts that “Plaintiff is ready for trial.” Id., PageID # 130.

Pretrial deadlines for this case are otherwise far enough into the future to provide counsel adequate time to prepare, as follows:

Pretrial Statement	-	August 31, 2021
Exchange Trial Exhibits	-	September 21, 2021
Motion in Limine	-	September 28, 2021
Witness Lists	-	September 28, 2021
Deposition Designations	-	September 28, 2021
Memorandum in Opposition to Motions Limine	-	October 5, 2021
Jury Voir Dire Questions	-	October 5, 2021
Confer about Special Verdict Form	-	October 5, 2021
Confer about Concise Statement	-	October 5, 2021

Jury Instructions - October 5, 2021

As of today, Plaintiff's counsel has plenty of time and opportunity to prepare for trial, where the Memorandum in Support also acknowledges "there should be no further developments that will have any impact on this case." ECF No. 60-1, PageID# 127.

All pretrial deadlines for this case should remain in place, even if the district court determines a trial continuance is necessary for protection of the public health, or other good cause within its discretion.

DATED: Wailuku, Maui, Hawaii, July 29, 2021

MOANA M. LUTEY
Corporation Counsel
Attorneys for Defendant
COUNTY OF MAUI

By /s/ Brian A. Bilberry
BRIAN A. BILBERRY
Deputy Corporation Counsel